



Federal Legislative & Regulatory Report

March 2018

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Senate Passes Dodd-Frank Relief

On March 14, the Senate passed S. 2155, the [Economic Growth, Regulatory Relief and Consumer Protection Act](#), by a vote of 67-31. The bipartisan measure provides regulatory relief for small and medium-sized banks by reforming post-financial crisis regulations imposed by Dodd-Frank.

Among the benefits for small banks are simplified capital requirements, an exemption from the Volker rule, and more flexibility around naming and charter requirements. Additionally, the bill includes language outlining the abilities of U.S. representatives to negotiate international capital standards through the International Association of Insurance Supervisors (IAIS) and Financial Stability Board (FSB).

In 2017, the House passed a more sweeping Dodd-Frank reform bill, the [Financial CHOICE Act](#). Bill sponsor and Financial Services Committee Chairman Jeb Hensarling indicated that he will push for several House approved financial reforms to be added to the Senate bill before passage. Changes to the Senate package can potentially upset the Democrats who supported the more targeted reform package in the Senate, and are needed for ultimate passage.

Also included in S. 2155 is the [SeniorSafe Act](#) of 2017 which aims to protect seniors from fraud by increasing communication between regulators and insurance providers. The House passed the measure in January as part of the [HOME Act](#) (H.R. 2255).

DOL Fiduciary Rule Found Invalid

The U.S. Fifth Circuit Court of Appeals announced on March 15 its long-awaited decision on the validity of the Department of Labor (DOL) Fiduciary Rule. In a 2-1 decision, the Court [found the rule](#)

to be completely invalid, reasoning that the DOL lacked the statutory authority to expand the definition of “fiduciary” and that the Department’s expanded definition was unreasonable.

The decision leaves questions as to what is now the law, can the DOL promulgate another rule, will the decision be appealed, and what this means for other best interest rule making efforts around the country.

Senators Reintroduce Bill to Connect Workers with Old Retirement Accounts

Sens. Elizabeth Warren (D-MA) and Steve Daines (R-MT) reintroduced on March 1 S. 2474, the [Retirement Savings Lost and Found Act](#). The bill aims to address the increasing number of small and abandoned retirement plans left behind as works spend less time with the same employer. The bill creates a national database of orphaned retirement accounts and amends the way plan sponsors administer and invest the accounts that have been left behind.

Relatedly, Department of Labor (DOL) auditors are pushing retirement plan sponsors to find missing terminated vested participants, creating a need for more formal guidance. In 2017, the DOL expanded its pilot program to address missing participants across the United States, recovering \$326.7 million for plan participants, and \$114.6 million so far in fiscal year 2018.

Senate Confirms New Insurance Member to FSOC

On March 21, the Senate confirmed Thomas Workman to be a Member of the Financial Stability Oversight Council (FSOC). Workman [replaces Roy Woodall](#) as the FSOC’s Independent Member with Insurance Expertise.

Mr. Workman has an extensive history in the insurance industry, including serving as president and CEO of the New York-based Life Insurance Council of New York Inc. (LICONY), practicing law with Bricker & Eckler L.L.P., where he chaired the Insurance Law Practice Group and served as legislative counsel to the Association of Ohio Life Insurance Companies. Mr. Workman will serve a six-year term where he will be instrumental in reform efforts concerning the designation of non-banks as systemically important financial institutions (SIFI).

OregonSaves Reaches \$1 Million in Assets

As of March 1, Oregon’s state-run retirement program for private sector workers has [topped the one-million-dollar asset threshold](#). The program, which began enrolling employers last October, now has 362 registered employers, including 135 that joined before the state mandated them to do so. On average, employees are contributing about \$47 per paycheck, but opt-out rates among eligible employees remain high. OregonSaves is the first fully operational state-run retirement program for private sector workers, making it a test-case for similar programs under consideration around the country.

Also in March, OregonSaves [reached a settlement](#) with the ERISA Industry Committee (ERIC), a national trade group representing large employers, which sued in October seeking to block part of the program. The objection from the national trade group representing large employers centered on companies that already offer retirement plans and a requirement that they certify as much to the state every three years. ERIC argued that was overly burdensome and violated a preemption in federal law. For OregonSaves, however, that reporting requirement is a key mechanism in determining which companies should be signing up for the program. Under the settlement terms, ERIC employers, when contacted by OregonSaves officials, would simply have to inform them that they are part of the trade group and therefore are exempt.

President Approves FY18 Omnibus Spending Bill

On March 23, Congress approved and the President signed a FY 2018 omnibus spending package, H.R. 1625, the [Consolidated Appropriations Act of 2018](#). The House approved the measure 256 to 167 and Senate voted 65 to 32. The Act does not include the [Retirement Enhancement and Savings Act](#) (RESA), a bipartisan package of retirement security improvements introduced earlier in March in the House and Senate with the hope of being attached to the omnibus.

The appropriations package funds the Federal Government for FY18 at levels consistent with the Bipartisan Budget Agreement and the National Defense Authorization Act, both passed earlier this year. The \$1.3 trillion package will fund the government through September 30, 2018. Included are increases to infrastructure funding, money to fight the opioid crisis, and funding for boarder security.

Additionally, the measure includes a revision to a Tax Cuts and Jobs Act (TCJA) provision that provided farmers a 20% deduction on payments for sales of crops to farmer-owned cooperatives, but not for sales to private or investor-owned businesses.

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References and source material used in this publication

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Text of the Economic Growth, Regulatory Relief and Consumer Protection Act (S. 2155)
<https://www.congress.gov/115/bills/s2155/BILLS-115s2155es.pdf>

Text of the Financial CHOICE Act (H.R. 10)
<https://www.congress.gov/115/bills/hr10/BILLS-115hr10rfs.pdf>

Text of the HOME Act
<https://www.congress.gov/bill/115th-congress/house-bill/2255>

Text of the Senior \$afe Act of 2017
<https://www.congress.gov/bill/115th-congress/house-bill/3758>

Fifth Circuit Strikes Down Entire DOL Fiduciary Duty Rule, Two Days After Tenth Circuit Upholds PTE 84-24
<https://www.lexology.com/library/detail.aspx?g=8b75ecdd-c81a-411e-9b83-4f6bad739fa8>

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Text of the Retirement Savings Lost and Found Act (S. 2474)
<https://www.congress.gov/115/bills/hr10/BILLS-115hr10rfs.pdf>

Senate confirms independent FSOC member
<http://www.businessinsurance.com/article/20180322/NEWS06/912320049/Senate-confirms-Thomas-Workman-as-independent-FSOC-member>

OregonSaves Tops \$1 Million in Assets
<https://www.napa-net.org/news/technical-competence/state-auto-ira-plans/oregonsaves-tops-1-million-assets/>

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State Savings Program Settles
<http://www.registerguard.com/rg/news/local/36599134-75/state-sponsored-retirement-plan-oregonsaves-reaches-settlement-with-national-trade-group.html.csp>

Text of the Consolidated Appropriations Act (H.R.1625)
<https://www.congress.gov/bill/115th-congress/house-bill/1625/text>

Text of the Retirement Enhancement and Savings Act (S.2526)
<https://www.congress.gov/bill/115th-congress/house-bill/1625/text>

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Tip: Click on highlighted words to go to the topic being discussed.

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Information presented in this newsletter was current and accurate as of the date of publication. This information is of a general and informational nature and is NOT INTENDED TO CONSTITUTE LEGAL OR INVESTMENT ADVICE. Rather, it is provided as a means to inform you of current information about legislative, regulatory changes and other information of interest. Plan Sponsors are urged to consult their own counsel regarding this information.

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants in the Employer page of our plan website, NRSforu.com. In addition, we report guidance on legislative and regulatory activity relevant to government sector plans through:

- *Federal Legislative and Regulatory Report* – distributed monthly and posted in the Plan Sponsor section of NRSforu.com. It's available online and for download.
- *Plan Sponsor Alerts* – published as needed to announce breaking news.
- *Governmental 457(b) Guidebook*

About this report

BOB BEASLEY, CRC, Communications Consultant, edits this report. Beasley brings 25 years of financial services communications experience to your plan. He has contributed to past editions of the *457(b) Governmental Guidebook*, edits countless newsletters and plan sponsor communications, and in 2001 authored "What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001." He often voices Nationwide's online presentations and telephone greetings.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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